

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
JOHN FLYNN, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 05-1020
)	Judge: Ellen S. Huvelle
SCHNELL CONTRACTING SERVICES, LLC.)	
)	
)	
Defendant.)	
_____)	

**MOTION FOR ENTRY OF DEFAULT JUDGMENT
AND INCORPORATED MEMORANDUM IN SUPPORT THEREOF**

Plaintiffs, by their attorneys, and in accordance with Federal Rule of Civil Procedure 55(b)(2), move this Court to enter a default judgment in favor of the Plaintiffs and against Defendant in the amount of \$183,960.56 on the ground that default has been entered against Defendant for failure to answer the Complaint of Plaintiffs. This motion is supported by the Declarations of David Stupar, attached hereto as Exhibit A and Ira Mitzner, attached hereto as Exhibit B. The certificate of the Clerk of this Court declaring Defendant in default is attached hereto as Exhibit C. A copy of the Complaint filed by Plaintiffs is attached hereto as Exhibit D.

FACTS

Plaintiffs, John Flynn, *et al.*, filed the complaint in this case on May 19, 2005. Defendant was served with the Summons and Complaint on September 15, 2005 and has failed to file an Answer to the Complaint. On November 7, 2005, the Clerk of this Court declared Schnell Contracting Services, LLC, to be in default.

ARGUMENT

Rule 55 of the Federal Rules of Civil Procedure provides that when a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, the Clerk shall enter the party's default and "the party entitled to a judgment by default shall apply to the court therefor." Defendant has failed to answer the Complaint, default has been entered by the Clerk, and Plaintiffs are entitled to judgment. Accordingly, Plaintiffs' motion for a default judgment should be granted. *See, e.g., Trustees of the Local 306, United Ass'n. Health & Welfare Fund v. Am. Testing & Inspection, Inc.*, No-88-2274-OG, 1988 WL 134942, *1 (D. D.C. Nov. 30, 1988) (entering default judgment where "defendant has failed to respond at any step of these proceedings or otherwise enter an appearance"); *Sanderford v. Prudential Ins. Co. of Am.*, 902 F.2d 897, 901 (11th Cir. 1990) (affirming entry of default judgment as "[n]either the text of the Federal Rules, nor judicial interpretation placed in the rules by the Federal Courts contemplate that a party may totally ignore pleadings and notices it receives").

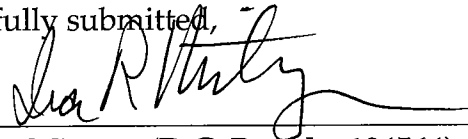
CONCLUSION

For the foregoing reasons, a default judgment in favor of Plaintiffs and against Defendant in the amount of \$183,960.56 should be entered.

Date: November 21, 2005

Respectfully submitted,

By



Ira R. Mitzner (D.C. Bar No. 184564)

DICKSTEIN SHAPIRO MORIN

& OSHINSKY LLP

2101 L Street, N.W.

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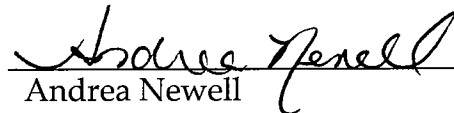
(202) 828-2234

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Declaration in Support of Service of Summons and Complaint was served by first class mail, postage prepaid, this 21 day of November, 2005 upon:

Schnell Contracting Services, LLC
1301 West Park Avenue
Ocean, NJ 07712


Andrea Newell